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+ = element present
− = element denied
(+) or (−) = source ambiguous
• = informant could not or would not say
S = some, sometimes, or several
† or * = see Ethnographic Notes, pp. 79-137 for additional information

| | Williams | Van der Donck | Lindeström | Zeisberger | Heckewelder | Johnston | Pipe | Chipps | J. W. | W. T. | E. R. | W. L. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 443 781 | | | | | | | | | | | | |
| 623 | | | | | | | | | | | | |
| 436 | | | | | | | | | | | | |
| 586 | | | | | | | | | | | | |
| 685 | | | | | | | | | | | | |
| 632 | | | | | | | | | | | | |
| 627 | | | | | | | | | | | | |
| 684 | | | | | | | | | | | | |
| 683 | | | | | | | | | | | | |
| *Chiefs—Continued* | | | | | | | | | | | | |
| 237. War chief chosen through vision power | | | | + | + | | | | + | + | + | + |
| 238. Body of counselors † | + | + | | + | + | + | + | + | + | + | + | + |
| 239. Name *upwaenowuk | | | | | | | + | | (+) | + | • | + |
| 240. Chosen by people | | | | | | + | + | | + | + | + | + |
| 241. Consider all matters of importance to tribe | | + | | + | + | + | + | • | + | + | + | + |
| 242. Counselors and chiefs only present at council meetings | | S? | | S | S | + | + | | S | S | S | S |
| 243. All adults except women admitted | | | | S | | | | + | + | S | S | S |
| *Justice* | | | | | | | | | | | | |
| 244. Any mode of compelling payment of debt | | | | + | | − | − | − | − | − | − | − |
| 245. Relatives of debtor make restitution | | | | + | + | | S | | + | | + | + |
| 246. Creditor uses force | | | | | | | S | + | •+ | | + | − |
| 247. Redress for civil injuries (theft) | •+ | + | + | + | + | − | − | − | + | − | + | + |
| 248. Injured party applies to chief | | + | | | − | | + | | + | | + | + |
| 249. Any punishment inflicted by nation if restitution is made | | − | | − | − | − | − | − | − | − | − | − |
| 250. Injured party has right to kill thief on second offense | | − | | | + | | | + | + | | + | + |
| 251. Murder punished | + | + | + | + | + | + | + | + | + | + | + | + |
| 252. By nation | + | − | + | − | − | − | + | − | + | • | − | + |
| 253. Breach closed by presents | | + | | + | + | + | + | + | + | + | − | + |
| 254. Amount of wampum as presents † | | | | + | • | + | + | + | + | + | • | + |
| 255. Lacking presents, revenge by relatives | + | + | + | | + | + | + | + | + | + | + | + |
| 256. Revenge duty of any individual | | •+ | | | − | − | − | − | •+ | − | • | •+ |
| 257. Any one interfere from duty | | •+ | | | | − | • | − | − | • | • | • |
| 258. Guilty submits | + | •− | | | | + | + | + | + | + | • | s |
| 259. Feud arise from revenge | | •+ | | | | | − | − | − | − | • | − |
| 260. Revenge approved by nation | + | | + | + | | + | | | + | + | • | + |
| 261. Crimes. Theft | + | + | | + | + | + | + | + | + | + | + | + |
| 262. Rape | | + | | | | | + | | + | + | + | + |
| 263. Adultery | + | + | | + | | | + | + | + | + | + | + |
| 264. Desertion of children | | | | | | | | + | + | (+) | • | |
| 265. Drunkenness and slander | + | | | | | | | + | + | (+) | | |

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Since debts were not discussed in detail in the first 686
period, we cannot tell whether their treatment was the same as Zeisberger recorded in the second period or not (244). Zeisberger said that if a debtor was unable to pay, the creditor dunned his friends who had to pay and rarely refused to do so. He thus implied that if a debtor was able to pay he was forced to do so. In the third and fourth periods the consensus was that there was no mode of compelling the payment of a debt, but that relatives or friends usually made restitution (245). Force might be used to get restitution, or, failing that, as a punishment (246). On this last element W. L. was the only dissenter. He said that force was never used because it was unnecessary, that anything borrowed was a gift and did not have to be returned unless a promise to do so was made by the borrower, and that a promise of this sort was always kept.

In spite of W. T.'s view of conditions among the Indians and 686
particularly the Delaware before much contact with the whites 177
had occurred, all of the first and second period accounts give evidence of a native mode of dealing with theft (247). It should be stated, however, that examples were said to be much more infrequent than among contemporaneous Europeans. No punishment except restitution was reported for the first offense (249). In default of restitution, J. W. said that a whipping was ordered 685
by the chief in cases of debt and theft and also as a punishment [684]
for rape. W. L. said that if wampum presents were not forthcoming from a detected thief, the chief ordered him to a whipping log where twenty-five strokes were administered for the first offense, fifty for the second, and other increases up to one hundred. Execution was not sanctioned as a punishment in default of presents, but in each of the last three periods the victim of a theft was said to have the right of killing such a defaulting thief on a subsequent offense, if caught in the act (250). This was denied by Van der Donck in the first period.

All the sources and informants were agreed that murder was 682
punished (251). Williams and Lindeström in the first period and J. W. and W. L. in the fourth were the only ones to report that the nation took any part in administering the punishment (252). However, according to Van der Donck, the chief or friends at-

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## Justice

*246. Use of force by creditor*

J. W. said that a creditor or victim of a theft did not use force himself to get restitution but applied to the chief. Failing restitution, the chief appointed a man to punish the offender by whipping. On a second or third offense, the chief appointed two men who tied offender to a tree and whipped him with twelve sticks, using one at a time until all were broken. Whipped him to death, was J. W.'s way of putting it. This he was quite sure was the punishment formerly used. Rape was also punished in the same way. 685 686

*247. Redress of civil injuries*

Roger Williams said force was used for restitution in case of theft involving different tribes. 681

*254. Amount of wampum paid by murderer*

Zeisberger said one hundred fathoms of wampum for the murder of a man and two hundred for that of a woman. A person who murdered a relative usually went free. 681 682

John Johnston reported that two hundred fathoms was the amount necessary to close the breach on the first offense, no amount being satisfactory for later offenses of this nature.

Captain Pipe—If a murder is committed the friends and relatives of the murderer collect by their own means and the contributions of others a quantity of wampum, which they deposit with the Chief of their own tribe from time to time until the stock amounts to an hundred and twenty fathoms if the murdered person be a man or an hundred and thirty fathoms if a woman. When this is effected the Chiefs call a council at which the nation, or as many as are so inclined, with the friends of the deceased and the murderer assemble. Here, after a few remarks by way of consolation to the afflicted relatives the acceptance of the wampum is proposed to them, and if they refuse eight fathoms are added to it and the presentation is repeated. If they persist in their refusal eight fathoms more are added and should they still reject the offer the connexions of the murderer [696]